

To the Members of the California State Assembly:

I am returning Assembly Bill 1830 without my signature.

In an attempt to address various issues to come out of the subprime loan meltdown, this bill would enact the Higher-Priced Mortgage Loan Law, restrict the use of various loan features, codify a fiduciary duty for mortgage brokers, and authorize California's mortgage regulators to apply specified federal mortgage lending laws and regulations to their licensees.

The goals of this bill are to be lauded and the work and effort that went into the bill commended. However, I believe the approach of the bill to address the subprime crisis overreaches and may have unintended consequences.

First, its provisions will only apply to state regulated entities, as federally regulated entities will be exempt. This will create an uneven playing field, putting state regulated entities at a competitive disadvantage and consumers will have unequal protections under the law. Secondly, this bill allows for a private right of action and allows a plaintiff to recover attorney fees if he or she prevails. The bill does not allow a defendant to recover costs if he or she prevails. This provision will likely lead to increased litigation based on de minimis violations as plaintiffs attorneys will have much to gain and little to lose.

Many changes have already occurred to curb some of the past lending and brokering abuses. Last year, I signed SB 385 strengthening underwriting criteria to ensure that borrowers can afford loans. The Federal Reserve Board has implemented amendments to the Truth in Lending Act (Regulation Z) to regulate advertising practices and provide additional protections to the lending marketplace. I recently signed SB 1137 to provide homeowners with additional protections against foreclosure and to expand the rights of tenants. Finally, the President recently signed the Housing and Economic Recovery Act, which imposes new oversight requirements on loan originators and contains many other provisions to assist in economic recovery. All of these changes need time to take effect. As a result, further legislation is unnecessary until we can evaluate the effect of the reforms that have already been enacted.

I am directing the appropriate agencies within my Administration to implement any of the appropriate portions of this bill that can be done so administratively. I encourage the

Legislature to work with my Administration to implement the many pieces of this legislation that could be helpful to consumers.

For these reasons, I am returning this bill without my signature.

Sincerely,

Arnold Schwarzenegger